

SUMMARY REPORT OF INVESTIGATION
Office of Inspector General Case # 15-0564 (Officer Dora Fontaine)
June 30, 2016

This report consists of a summary of the evidence set out in the attached investigative materials and the Office of Inspector General's (OIG's) analysis of that evidence. An index of the investigative materials is attached.

I. INTRODUCTION

An OIG investigation has established that Dora Fontaine, a police officer for the Chicago Police Department (CPD) who was present when Officer Jason Van Dyke shot Laquan McDonald on October 20, 2014, violated CPD Rules and Regulations during the subsequent CPD investigation.¹ Fontaine was assigned to Beat 841R on October 20, 2014, and arrived at the scene with her partner, Officer Ricardo Viramontes, as Van Dyke was shooting McDonald. As detailed further below, Fontaine made false statements during her subsequent interview with CPD, which served to materially mischaracterize the events leading up to the McDonald shooting, and to thereby bolster a false narrative which might offer justification for the shooting. Accordingly, OIG recommends that CPD discharge Fontaine and refer her for placement on the ineligible for rehire list maintained by the Department of Human Resources.

II. APPLICABLE RULES, REGULATIONS, AND LAW

A. CPD Rules and Regulations

The "Rules and Regulations of the Chicago Police Department" set out the standards of conduct and duties of sworn members, as well as CPD goals. The Rules and Regulations state that sworn members must "conduct themselves at all times in such a manner as will reflect credit upon the Department with emphasis on personal integrity and professional devotion to law enforcement."

Article V of the CPD Rules and Regulations, entitled CPD Rules of Conduct (the CPD Rules), sets forth specifically prohibited acts. In pertinent part, the CPD Rules include the following prohibitions:

Rule 2 Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.

¹ CPD's investigation in the aftermath of the McDonald shooting was reported under record number HX-475653, and most reports were classified as an investigation into an aggravated assault in which McDonald was the offender. In a few reports, the case was classified as an investigation into a justifiable homicide of which McDonald was the victim. An additional record number was also created and classified as a justifiable homicide, apparently for recordkeeping purposes. In CPD's investigative reports classified under the aggravated assault, CPD personnel drew conclusions about the propriety and lawfulness of Van Dyke's shooting of McDonald. This raises questions about CPD's role in investigating a police-involved shooting in light of IPRA's jurisdiction over the matter.

Rule 3 Any failure to promote the Department's efforts to implement its policy or accomplish its goals.

Rule 14 Making a false report, written or oral.

III. OFFICER FONTAINE'S EMPLOYMENT HISTORY

Fontaine has worked as a CPD Police Officer since October 29, 2001. She is a member of Fraternal Order of Police (FOP) Lodge 7.

IV. SUMMARY OF INVESTIGATION

A. Procedural History of OIG's Investigation

By letter, dated December 8, 2015, Independent Police Review Authority (IPRA) Acting Chief Administrator Sharon Fairley requested that OIG conduct an administrative investigation "to determine whether certain police officers/witnesses made false statements on official reports prepared in connection with [Van Dyke's shooting of McDonald] and/or during the investigation of the incident."² IPRA further requested that OIG investigate "whether any of the involved Chicago Police officers committed any other violation(s) of Chicago Police Department rules, policies or procedures in their involvement with the incident, including, but not limited to, whether any officers' conduct may have interfered with or obstructed the appropriate investigation and handling of this matter."

Then, by letter, dated January 13, 2016, CPD Interim Superintendent John J. Escalante requested that OIG conduct an "administrative investigation into any and all allegations of police officer misconduct" arising out of the October 20, 2014 shooting death of McDonald. The Superintendent's request asked OIG to investigate the following allegations: "whether any officer(s) made false statements on official reports submitted in connection with the shooting of Laquan McDonald on October 20, 2014; whether any officer(s) obstructed or interfered with the investigation of this incident, either individually or in collusion with others; and whether any officer(s) committed any violation of Chicago Police Department rules, policies, or orders in connection with their response and/or handling of this matter." Escalante attached to the letter request a copy of Sergeant Sandra Soria's Initiation Report, which raises allegations of misconduct related to the in-car video systems of the vehicles that were present during the McDonald shooting, and identified that Report as a basis for OIG's administrative investigation.

On March 10, 2016, Kevin Kilmer, Financial Secretary for the FOP, on behalf of all affected members, filed a grievance with CPD stating that OIG's attempts to conduct CPD officer

² On November 24, 2015, the Cook County State's Attorney charged Van Dyke with a single count of first degree murder in the shooting of McDonald. On December 15, 2015, it subsequently charged him with six counts of murder. OIG has not been involved with any criminal investigation related to the shooting and makes no findings regarding Van Dyke's use of force.

interviews violated Article 6 of CPD's Collective Bargaining Agreement (CBA) with the FOP.³ On March 16, 2016, FOP on behalf of all impacted CPD officers filed a "Complaint for Injunction in Aid of Arbitration" in the Circuit Court of Cook County, asking the court to enjoin OIG from conducting interviews until the grievance was decided in arbitration.⁴ The court dismissed the complaint and denied the injunction on March 22, 2016.

OIG's administrative investigation of other CPD employees' actions related to the McDonald shooting is ongoing. During the course of its investigation, OIG has gathered documents from CPD and IPRA, among other sources, and conducted numerous interviews, including interviews of thirteen CPD personnel who were at or responded to the scene of the shooting and seven civilian witnesses to the shooting. To date in its ongoing investigation, OIG has recommended disciplinary action against multiple CPD personnel, sustaining allegations that they each put forth false a narrative regarding the shooting.

B. The Events of October 20, 2014

The following sections detail the shooting of McDonald, as well as the relevant events that occurred directly before and after the shooting.⁵

1. [REDACTED] and Rudy Barillas's Encounter with McDonald⁶

[REDACTED] Rudy Barillas, were parking a truck in a lot at 41st Street and Kildare Avenue when [REDACTED] saw a black male, whom she subsequently identified as McDonald, attempting to steal property from certain vehicles parked in the lot. Barillas told McDonald to leave the lot. McDonald responded by making growling noises. After Barillas again told McDonald to leave the lot, McDonald pulled out a knife and swung it at Barillas. Barillas, who had already called 911, then threw his cell phone at McDonald.⁷ McDonald ran from the lot, first northbound on Kildare and then eastbound on 40th Street.

³ Section 6.1, Paragraph I of the CBA states, "If the allegation under investigation indicates a recommendation for separation is probable against the Officer, the Officer will be given the statutory administrative proceeding rights, or if the allegation indicates criminal prosecution is probable against the Officer, the Officer will be given the constitutional rights concerning self-incrimination prior to the commencement of interrogation." CPD General Order GO8-01-01, Paragraph K contains similar language.

⁴ *Fraternal Order of Police, Chicago Lodge 7 v. City of Chicago*, No. 2016 CH 03726 (Cir. Ct. of Cook County, Ill., Mar. 16, 2016).

⁵ On April 22, 2016, OIG obtained maps of the locations that are relevant to the shooting from Google Maps and included those maps in Appendix A. Those maps generally reflect the street layout and location of relevant businesses as they were on the night of October 20, 2014.

⁶ The following account of [REDACTED] and Barillas's encounter with McDonald is taken from the March 16, 2015 case supplementary report (CSR) submitted by CPD Detective David March, which includes the statements that [REDACTED] and Barillas provided to CPD on October 21, 2014, and October 22, 2014, respectively. OIG 15-0564 003077.

⁷ OEMC recordings reflect that Barillas called 911 at 9:45 p.m. stating that he was holding "a guy right hear [sic] that stolen [sic] the radios" from trucks in a truck yard located at "41st and Kildare." OIG 15-0564 003227.

2. Officers Thomas Gaffney and Joseph McElligott's Encounter with McDonald⁸

Officer Thomas Gaffney and his partner Officer Joseph McElligott received a call over the radio that someone had broken into a truck at 4100 South Kildare and were dispatched to the scene.⁹ Gaffney was driving, and McElligott was in the passenger seat of their assigned vehicle, 815R.¹⁰ When they arrived at 4100 South Kildare, they saw a Hispanic male and female standing by the gate to the truck yard. The two said that a black male wearing a black shirt, later determined to be McDonald, had been trying to steal the radio out of a semi-truck, and had subsequently headed north toward 40th Street.

Gaffney and McElligott drove north on Kildare, turned right onto 40th Street, and saw McDonald walking east on the south side of 40th Street. McElligott exited the vehicle and commanded McDonald to stop and turn around. Gaffney stayed in the vehicle in case McDonald attempted to flee. McElligott ordered McDonald to take his hands out of his pockets. McDonald, who had been facing McElligott, turned and walked away with one hand still in his pocket. McDonald then turned again and took both of his hands out of his pockets. He had a knife in his right hand. McElligott drew his weapon and told McDonald to drop the knife. McDonald started walking east again, going from the sidewalk to the street and back. McElligott followed McDonald on foot, shining his flashlight on him, while Gaffney followed in 815R, parallel to McDonald.

⁸ The following account of Gaffney and McElligott's encounter with McDonald is taken from (1) the audio-recorded statements Gaffney and McElligott provided to IPRA on October 21, 2014; and (2) the March 16, 2015 CSR submitted by Detective David March, which includes the statements that Gaffney and McElligott provided to March on the night of the McDonald shooting. OIG 15-0564 000482-98, 000610-30, 003067-69.

⁹ OEMC records reflect that Gaffney and McElligott received the call at 9:47 p.m. OIG 15-0564 003691.

¹⁰ Below is a chart identifying the beat numbers and vehicle numbers of the CPD vehicles that were present when McDonald was shot, along with the names of the officers who were assigned to those vehicles. This SRI refers to the below-referenced vehicles by beat number, unless otherwise specified.

Beat #	Vehicle #	Officers
845R	6412	Officer Joseph Walsh (driver), Officer Van Dyke (passenger)
815R	8489	Officer Gaffney (driver), Officer McElligott (passenger and on foot)
813R	8779	Officer Janet Mondragon (driver), Officer Daphne Sebastian (passenger)
822R	8765	Officer Arturo Becerra (driver), Officer Leticia Velez (passenger)
841R	8948	Officer Viramontes (driver), Officer Fontaine (passenger)

As McDonald approached the intersection of 40th and Keeler, Gaffney reported to dispatch that McDonald was walking away with a knife in his hand.¹¹ Gaffney and McElligott continued to follow McDonald as he headed east, with McElligott giving McDonald orders to drop his knife and stop. McDonald kept turning around and giving the officers a “weird glaze[d] look.” Gaffney IPRA Tr. 11:20.¹²

As McDonald approached the intersection of 40th and Karlov, Gaffney turned his car toward McDonald to direct him down Karlov. Gaffney wanted to keep McDonald away from Pulaski, which was a more populated area. McDonald then swung his arm and popped 815R’s right front tire with his knife. McElligott was toward the back of 815R when McDonald popped its tire. After McDonald took a step back from the vehicle, Gaffney pulled up further in front of him to stop him from proceeding to Pulaski. McDonald then hit the right side of 815R’s windshield once with the knife in his right hand. The windshield did not break but, according to Gaffney, McDonald hit it as hard as he could. McDonald walked around the front of 815R and continued eastward on 40th Street. After McDonald had walked 10 to 15 feet, another squad car turned off of Pulaski onto 40th Street with its lights on, and McDonald began to sprint. McElligott followed McDonald on foot, and Gaffney followed McDonald in 815R. McDonald ran eastbound through a parking lot of a Burger King located at 40th and Pulaski and then headed southbound on Pulaski. Video footage from several cameras captured McDonald’s movements as he reached Pulaski.

3. Summary of the Relevant Video Footage

The below table contains a summary of the relevant video footage of the McDonald shooting, which includes the dashcam videos from 813R, 823R, and 845R, video from the “WNE fire exit” security camera from the Greater Chicago Food Depository, which is bordered by 40th Street to the north, Karlov Avenue to the east, and Keeler Avenue to the west, and the security camera video from the Dunkin’ Donuts, located at 4113 South Pulaski Road (the DD Camera).¹³

Time	Event(s) Captured	Source of Video
9:53:17 – 9:54:42	McDonald walks eastbound on the south side sidewalk of 40th Street; a CPD SUV travels east on 40th Street, parallel to McDonald with its front bumper even with McDonald; an officer on foot trails directly behind	Greater Chicago Food Depository Security Camera

¹¹ OEMC recordings reflect that, at 9:53 p.m., 815R reported: “We’re at 40th and Keeler. This guy uh is walking away from us and he’s got a knife in his hand.” Approximately 30 seconds later, a dispatcher stated, “815R looking for a taser.” See OEMC Documents and CDs; see also OIG 15-0564 003691, 3228.

¹² OIG 15-0564 000620.

¹³ In addition to the videos cited in the summary, OIG obtained video footage from the security camera videos at Burger King and Focal Point, and the dash camera videos from Vehicles 815R and 821R. These videos did not contain footage relevant to this report.

	McDonald by the length of the SUV, with his flashlight trained on McDonald. ¹⁴	
9:56:53 – 9:57:01	813R and 845R turn left onto 40th Street from Pulaski.	813R Dashcam
9:57:01– 9:57:09	An unidentified person on 40th Street points the CPD vehicles toward the Burger King parking lot (813R); 845R turns into the parking lot (813R). McDonald runs southeast through the Burger King parking lot out onto Pulaski (845R).	813R Dashcam; 845R Dashcam
9:57:09 – 9:57:20	845R drives over the curb and sidewalk north of Burger King and heads south on Pulaski (845R); 813R turns around, turns right onto 40th Street, and then right again on Pulaski (813R); McDonald runs southbound in the middle of Pulaski and enters the intersection of 41st Street and Pulaski (813R).	813R Dashcam; 845R Dashcam
9:57:20 – 9:57:25	845R, which is facing east/southeast on Pulaski just north of 41st street, turns right behind McDonald and proceeds south on Pulaski on the east side of the street; 845R's passenger door briefly opens and then closes as it passes McDonald on his left; McDonald continues southbound on Pulaski, toward 822R, which is stopped in the middle of Pulaski facing north.	813R Dashcam
9:57:25 – 9:57:28	McDonald slows as he approaches 822R, touches his hands to his waist, and then, before Walsh and Van Dyke exit 845R, extends his right arm fully to his right—the video shows that he has a silver object in his right hand; 845R passes 822R and comes to a stop on the east side of Pulaski, facing south and almost directly south of 822R; Van Dyke opens 845R's passenger door.	813R Dashcam
9:57:28 – 9:57:30	McDonald changes course and begins walking southwest on Pulaski, away from 822R and 845R (813R); Van Dyke exits the passenger side of 845R with both of his feet in	813R Dashcam; DD Camera ¹⁵

¹⁴ OIG confirmed the vehicle is 815R and the officer on foot is McElligott by comparing the video with photographs of the officers. OIG 15-0564 003356.

¹⁵ The DD Camera video does not display an embedded timestamp. Therefore, OIG used the timestamp of 813R's video, which generally captured the same events as the DD Camera from a different angle, to establish the timeframe of the events captured by the DD Camera.

	Pulaski's northbound left turn lane, his gun drawn and pointed at McDonald (813R). Walsh exits the driver side of 845R, just east of Pulaski's northbound left turn lane, with his gun drawn, and moves north along the driver side of 845R until he is several feet north of 845R (DD Camera).	
9:57:30 – 9:57:33	McDonald continues to walk southwest, from the middle of Pulaski to the lane markers that divide the west side of the road (or approximately one lane west of where McDonald was prior to changing course) (813R). While McDonald walks southwest, Walsh begins moving sideways in a west/southwest direction, approximately parallel to McDonald, and crosses over the east side of Pulaski's northbound left-turn lane—his gun is pointed at McDonald (813R; DD Camera). Van Dyke takes approximately two steps northwest toward McDonald, with his left foot crossing into Pulaski's yellow-painted median strip—his gun is pointed at McDonald (813R; DD Camera). 822R drives north on Pulaski, away from 845R (813R). 841R drives north in the middle of Pulaski, toward 845R and stops approximately one car length south of 845R, facing north (813R; DD Camera).	813R Dashcam; DD Camera
9:57:33 – 9:57:36	As McDonald approaches the lane markers on the west side of Pulaski, walking in a southwest direction, he looks to his right and moves his right hand behind his waist, near the right side of his lower back, then brings his hand back to his right side (813R). As McDonald crosses the lane markers on the west side of Pulaski, he looks to his left, and takes a step southbound (813R). Meanwhile, Walsh continues moving west/southwest with his gun pointed at McDonald, ultimately traversing almost the entire width of Pulaski's northbound left-turn lane (813R; DD Camera). Van Dyke takes an additional step west, toward McDonald, putting both of his feet in Pulaski's median strip and placing himself almost directly between McDonald and Walsh (813R; DD Camera). McDonald is then apparently shot, and Walsh stops moving and adopts a stance, with his feet more than a shoulder's width apart	813R Dashcam; 845R Dashcam; DD Camera

	(813R; DD Camera). Viramontes opens 841R's driver's door; Fontaine opens 841R's passenger door (845R). ¹⁶	
9:57:36 – 9:57:54	McDonald spins between 180 and 270 degrees in a clockwise direction and then falls to the ground with the top of his head pointing south on Pulaski, approximately one street lane east of Van Dyke and just south of Van Dyke (813R). As McDonald falls to the ground, Van Dyke takes another step west toward McDonald, moving his right foot from Pulaski's median strip into the south-bound side of Pulaski; his gun remains pointed at McDonald (813R). Van Dyke subsequently takes an additional step or two south, toward McDonald (DD Camera). Other than those steps, Van Dyke's feet are stationary (DD Camera). After McDonald is on the ground, his legs and feet do not move (813R). McDonald's upper body makes small, intermittent movements as what appear to be puffs of smoke rise from McDonald's body (813R). Viramontes exits the driver's door of 841R and stands by the driver's side of the vehicle; Fontaine exits the passenger door of 841R and walks to 845R. (845R)	813R Dashcam; 845R Dashcam; DD Camera
9:57:54 – 9:58:05	An officer approaches McDonald and kicks the knife from his hand. McDonald does not make any noticeable movements.	813R Dashcam
9:58:05- 9:58:20	McDonald lies on the ground; no aid is rendered by CPD personnel. 823R, travelling northbound, pulls up on the west side of Pulaski, and stops just south of where McDonald is lying.	813R Dashcam; 823R Dashcam
9:58:20- 9:58:57	Several CPD officers walk and stand near McDonald as he lies on the ground; no aid is rendered by CPD personnel.	813R Dashcam; ¹⁷ 823R Dashcam
9:58:57-	823R begins making a U-turn on Pulaski. A Cook	823R Dashcam

¹⁶ OEMC records show that dispatch received notice to send an ambulance to the scene at 9:57:51. OIG 15-0564 003691.

¹⁷ The last time stamp visible on the 813R dashcam video is 9:58:55.

9:59:02	County Sheriff's Police Department (CCSPD) officer puts on blue gloves and walks toward McDonald. ¹⁸ McDonald is no longer visible in the video frame.	
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4. CCSPD Officer Accounts of the October 20, 2014 McDonald Shooting¹⁹

While on patrol on October 20, 2014, CCSPD Officers Adam Murphy and Jeff Pasqua observed several CPD police vehicles pass by them. Both officers decided to follow the CPD vehicles. When they arrived at the scene, several CPD vehicles were already present—Pasqua estimated it was five or six. McDonald was lying on the pavement “gasping for his last breath of air.” Pasqua OIG Tr. 11:22-23. Meanwhile, the CPD officers were “standing around” and talking to each other. Murphy OIG Tr. 11:1. Murphy noted the CPD officers did not respond to him when he asked if they needed assistance. Murphy stated:

I see there's blood all over the pavement. [McDonald] was kind of gurgling when he was sitting there. I remember his mouth was going open and closed like he was trying to gasp for air. And I looked for everybody else, and they were kind of standing there. I just started taking my gloves—my rubber gloves out to check for a pulse and to see if I could render aid.

Murphy OIG Tr. 12:18-13:2. He heard someone say an ambulance was en route. Both Officers Murphy and Pasqua recalled then watching McDonald take his final breaths.²⁰ It was “[m]aybe less than a minute before [McDonald] expired.” Murphy OIG Tr. 14:15-16. At no time did any CPD officers attempt to provide aid or comfort McDonald—Murphy stated, “That's why I felt that I needed to go up to him.” Murphy OIG Tr. 14:11-12.

After McDonald passed away, Murphy got up from beside him and noticed the shooting officer, who he now knows to be Van Dyke, “pacing back and forth in front of his car.” Murphy OIG Tr. 15:7-8. Murphy approached him and told him to sit down and drink water. As he was speaking with Van Dyke, Murphy “heard several officers telling [Van Dyke] to ‘call your union rep, call your union rep.’” Murphy OIG Tr. 15:16-17.

Murphy and Pasqua departed after approximately ten minutes on the scene when a CPD sergeant told them CPD did not need their assistance. At the time they left, there was “[a] sea of CPD” on scene. Murphy OIG Tr. 38:3; Pasqua OIG Tr. 25:7-8.

¹⁸ OIG identified the CCSPD officer as Officer Adam Murphy.

¹⁹ The following CCSPD Officer accounts are taken from OIG's June 23, 2016 interview of Jeff Pasqua and its June 24, 2015 interview of Adam Murphy. Pasqua and Murphy are currently CCSPD investigators.

²⁰ The Medical Examiner's Case Report states McDonald was pronounced dead “on view” at Mount Sinai Medical Center on October 20, 2014, at 10:42 p.m. OIG 15-0564 015029.

C. Officer Fontaine's October 20, 2014 Statement to Detective David March²¹

On March 15, 2015, Detective David March submitted a case supplementary report (CSR) with the R.D. Number HX475653 that contains a summary of CPD's investigation in the aftermath of the McDonald shooting. Lieutenant Anthony Wojcik approved the CSR on March 16, 2015. Included in that CSR is March's summary of the statement he obtained from Fontaine at the scene of the shooting.²² The CSR summarizes Fontaine's October 20, 2014 statement in relevant part as follows:

Fontaine was working with Police Officer Ricardo Viramontes. The two officers were assigned to a marked vehicle. Viramontes was driving the vehicle and Fontaine was the passenger.

The two officers responded to the request for assistance made by Beat 815R, regarding a man with a knife at 41st Street and Pulaski Road. Officer Viramontes drove northbound on Pulaski. When they arrived at the scene of this incident, in front of the Dunkin' Donuts restaurant, Officer Fontaine saw a black male subject, now known as Laquan McDonald, walking southbound in the street, with a knife in his right hand. McDonald was walking sideways, with his body facing east, toward Officers Jason Van Dyke and Joseph Walsh. These two officers were standing in the middle of the street, on the right side of their police vehicle, which was facing southbound. Fontaine heard the officers repeatedly order McDonald to "Drop the knife!" McDonald ignored the verbal direction and instead, raised his right arm toward Officer Van Dyke, as if attacking Van Dyke. At this time Van Dyke fired multiple shots from his handgun, until McDonald fell to the ground and stopped moving his right arm and hand, which still grasped the knife. The gunshots were rapid fire, without pause. Officer Walsh then kicked the knife out of McDonald's hand.

D. OIG's Interviews of Officer Fontaine**1. March 16, 2016 Interview**

On February 22, 2016, pursuant to Section 6.1 of the CBA between CPD and FOP, OIG, through CPD's Bureau of Internal Affairs, served Fontaine with a Notification of Interview, Notification of Allegations, and copies of her prior statements, including: (1) her October 20, 2014 statement to March, contained in the March 16, 2015 CSR; and (2) March's GPR containing his handwritten notes of his interview of Fontaine. In addition, OIG provided Fontaine with the dashcam footage from 813R and 845R and the security camera footage from Dunkin' Donuts.

²¹ OIG 15-0564 003071.

²² March completed a General Progress Report (GPR) relating to his interview of Fontaine that contains March's handwritten notes of the interview. OIG 15-0564 003252. March's handwritten notes of the interview do not differ in any significant way from his summary of Fontaine's statement in the CSR.

On March 16, 2016, OIG investigators interviewed Fontaine under oath after informing her of her administrative rights orally and in writing. She provided oral and written acknowledgement of the reading of those advisements. The interview was transcribed by a certified court reporter. Fontaine's attorney, Jennifer Russell, was also present for the interview. In summary, Fontaine stated as follows.

As of October 20, 2014, Fontaine was assigned to CPD's 8th District and was working the first watch on Beat 841R. She was under the command of Sergeant Franko, and was partnered with Officer Viramontes. She and Viramontes had been partners for about five years.

a) The Scene of the Shooting

Fontaine and Viramontes were present on October 20, 2014, when Van Dyke shot McDonald. After the shooting, Sergeant Franko directed Fontaine and Viramontes to engage in traffic control. They proceeded southbound on Pulaski to block traffic coming from the north. Franko then assigned Fontaine and Viramontes to write the initial report for the incident. Sergeant Spreyne subsequently ordered Fontaine and Viramontes to accompany McDonald's body to the hospital, but shortly after they left the scene, Spreyne ordered them back to the scene, and they proceeded to complete the report. That report did not contain any substantive narrative of the incident.²³ Fontaine explained, "[M]y role when filling out the case report is you put the date, the time, the beat numbers, and just 'see detective sup.'" Fontaine 3/16/16 OIG Tr. 86:22-87:1. In preparing the report, Fontaine and Viramontes asked officers on the scene for their names and star numbers. Viramontes walked around the scene, while Fontaine spoke to anyone who was near the 841R vehicle.

Fontaine spoke to Detective March at the scene of the shooting. March approached Fontaine while she was in her vehicle working on the case report. She exited the car and spoke with him. March asked her for the RD number of the investigation and which beat cars were on the scene. March also asked where Fontaine and Viramontes had been during the shooting and if she had seen anything. Fontaine told him that she had and provided details regarding the shooting. March had a pen and pad, but Fontaine did not recall him writing anything down. Her conversation with March lasted less than 15 minutes. Fontaine believed that March talked to Viramontes after his conversation with her, but was not sure.

b) Area Central

After completing the case report, Fontaine and Viramontes went to Area Central in 841R, with Viramontes driving. When they arrived at Area Central, they were told to wait in the main room

²³ The Original Case Incident Report Fontaine authored classifies the incident as an "Assault – Aggravated PO: Knife/Cut Instr." Fontaine submitted the Report at 4:32 a.m. on October 21, 2014; Franko approved it at 5:18 a.m. on October 21, 2014. The report lists Gaffney, Van Dyke, and Walsh as victims, and McDonald as the sole offender. In the field titled "Injuries," Fontaine listed Van Dyke and designated him as "Injured by offender." Van Dyke's Officer's Battery Report and Tactical Response Report stated that Van Dyke was not injured. In addition, March's CSR did not report that Van Dyke was injured.

on the second floor for FOP to speak with them. Most of the officers who had been on the scene of the shooting were already there, but, according to Fontaine, Van Dyke was not present. An FOP representative then walked the officers through what would happen at the station that night.

Later, March asked Fontaine to go into a small Area Central office and then showed her video of the McDonald shooting on a computer monitor. There was another person in the room who ran the video, but Fontaine did not know the identity of that person. Fontaine recalled, “[March] was showing me the video and he says, when [McDonald] was walking – he says, ‘It looks as if he’s turning here.’ And I was like, ‘Oh, it does.’” Fontaine 3/16/16 OIG Tr. 72:21-24. Fontaine further recalled that March asked, “Oh, is this where he’s walking?” Fontaine 3/16/16 OIG Tr. 73:16. Fontaine said that it was, and March asked, ““You see he kind of turns around?”” Fontaine 3/16/16 OIG Tr. 73:17-18. Fontaine agreed that it did look as though McDonald “kind of turns.” Fontaine 3/16/16 OIG Tr. 73:20. Fontaine did not recall March taking notes during their interaction. March did not ask her any other questions after showing her the video, and she returned to the main room. In her OIG interview, Fontaine viewed video from 813R’s in-car video system and was asked to identify the specific moment at which McDonald “turns,” as pointed out by March. She was unable to do so after watching the video several times. However, she agreed that 813R’s video was likely the video that March showed her at Area Central.

After she and March watched the video, Fontaine continued to wait at Area Central. She thought that she and Viramontes would be called to give statements to IPRA, but they were not asked to do so. At some point after 6 a.m., Franko released them, they drove back to the 8th District, and went home.

c) Fontaine’s Statement to Detective March

Fontaine was asked to review the statements attributed to her in March’s CSR and identify any statements she did not make to March. She pointed out the sentence in the CSR which reads, “McDonald ignored the verbal direction, instead raised his right arm toward Officer Van Dyke as if attacking Van Dyke,” and said “I don’t recall telling [March] that.” Fontaine 3/16/16 OIG Tr. 115:19-20. Fontaine said that she did not see McDonald raise his right arm toward Van Dyke. Fontaine did maintain that, when she first saw McDonald, “[H]e was walking southbound swaying the knife and Van Dyke and Walsh were – how should I put it? They were outside their vehicle . . . [a]nd from where I was looking at it on an angle, it looked like he was walking almost toward them.” Fontaine 3/16/16 OIG Tr. 118:9-16. When asked whether McDonald had turned toward Van Dyke and Walsh, Fontaine answered, “If you slow it down slow enough, it looks as if he’s turning towards them But I’m not sure. But that’s – but I’m not sure if that’s because he was shot at that point” Fontaine 3/16/16 OIG Tr. 121:21-122:7.

With respect to the statement in March’s CSR which reads, “McDonald was walking sideways with his body facing east towards Jason Van Dyke and Officer Walsh,” Fontaine said she did not know whether she had made that statement to March. Fontaine 3/16/16 OIG Tr. 122:15-22. Fontaine acknowledged making the rest of the statements attributed to her in the CSR during her conversation with March at the scene of the shooting.

Fontaine was asked whether the statements attributed to her in March's CSR were factually accurate. She answered that the statement that McDonald raised his arm as if attacking Van Dyke was not accurate. She believed all other statements in the CSR were accurate, including the statement that McDonald was walking sideways with his body facing east. When asked whether she had related any facts to March which were not included in the CSR, she said she believed she told March that McDonald was "swaying" the knife. Fontaine 3/16/16 OIG Tr. 128:13.

When asked why she did not tell March that Walsh and Van Dyke moved toward McDonald prior to the shooting, Fontaine answered that she had not seen that, because Walsh and Van Dyke were blocked from her view by their vehicle. When asked why she had not told March that McDonald changed the direction in which he was walking prior to being shot, Fontaine answered, "I didn't see that. I didn't see him changing direction." Fontaine 3/16/16 OIG Tr. 133:20-21.

Fontaine declined to stand by the statement attributed to her in the CSR that McDonald raised his right arm toward Van Dyke as if attacking Van Dyke, reiterating, "I never made that statement." Fontaine 3/16/16 OIG Tr. 134:7. Fontaine did stand by her statement to March that the gunshots which Van Dyke fired at McDonald were rapid fire and without pause.

When asked when she first saw March's write-up of her statement, Fontaine said that she saw it "[i]n the newspaper." Fontaine 3/16/16 OIG Tr. 94:10. She did not recall when she saw it.²⁴

d) Fontaine's Grand Jury Testimony

Fontaine testified before a grand jury regarding the McDonald shooting, but did not remember specific details about what questions she was asked. When asked what she told the grand jury about the shooting, Fontaine answered, "At this time, watching the video and everything else that's coming about it, it's – honestly, I – it's all mixed up because of the fact that once they showed me the video, certain parts were different than what I stated." Fontaine 3/16/16 OIG Tr. 33:19-23. When asked whether she had related a different version of events to the grand jury than she had to March, Fontaine answered: "The grand jury, I told them what I saw at that point in time, what was – what I remember of the situation. That's what I explained to them at that point in time. At that time, I had – I remember telling March what I saw. And, again, after reviewing everything, it – it kind of differs." Fontaine 3/16/16 OIG Tr. 34:13-19. Asked in what way those versions of events differed, Fontaine answered, "It differs because, by looking at [March's] notes, there's – where he puts that I said he raised his arm as if attacking Van Dyke, I never stated that or I don't recall stating that to him." Fontaine 3/16/16 OIG Tr. 34:21-35:1. Fontaine did not discuss her grand jury testimony with any of the other CPD officers who were on the scene of the McDonald shooting; she "didn't want to talk about it." Fontaine OIG 3/16/16 Tr. 37:15.

²⁴ March's write up of Fontaine's statement, identifying Fontaine by name, is published in the press as early as December 5, 2015. See Tribune Staff, *Laquan McDonald Police Reports Differ Dramatically From Video*, CHICAGO TRIBUNE, Dec. 5, 2015.

1. June 17, 2016 Interview

On June 17, 2016, OIG re-interviewed Fontaine after informing her of her administrative advisements orally and in writing. She provided oral and written acknowledgement of the reading of those advisements. Fontaine refused to be placed under oath. The interview was transcribed by a certified court reporter. Fontaine's attorney, Jennifer Russell, was also present for the interview. In summary, Fontaine stated as follows.

Fontaine reviewed the statements attributed to her in the March 16, 2015 CSR and provided the following responses.

Statement from CSR	Response When Asked to Review
<p>"When [she and Viramontes] arrived at the scene of this incident in front of the Dunkin' Donuts restaurant, Officer Fontaine saw a black male subject, now known as Laquan McDonald, walking southbound down the street with a knife in his hand."</p>	<p>Fontaine affirmed that she made this statement to March and that it was accurate.</p>
<p>"Two officers were standing in the middle of the street on the right side of their police vehicle which was facing southbound."</p>	<p>Fontaine affirmed that she made this statement to March and that it was accurate.</p>
<p>"Fontaine heard the officers repeatedly order McDonald to drop the knife."</p>	<p>When asked whether she made this statement to March, Fontaine answered, "Yes, to the best of my knowledge. Yes." Fontaine 6/17/16 OIG Tr. 26:5. When asked whether the statement was accurate, she said, "Yes." Fontaine 6/17/16 OIG Tr. 26:7.</p>
<p>"McDonald ignored the verbal direction . . ."</p>	<p>When asked whether she told March that McDonald ignored the verbal direction, she said, "Yes, to the best of my recollection. Yes." Fontaine 6/17/16 OIG Tr. 27:8. She also affirmed that that part of the statement was accurate.</p>
<p>"At this time, Van Dyke fired multiple shots from his hand gun"</p>	<p>Fontaine affirmed that she made this statement to March and that it was accurate.</p>

until McDonald fell to the ground and stopped moving his arm and hand which still grasped the knife.”	
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Fontaine reviewed video footage of the shooting during her interview. When asked how she could have heard the officers saying “drop the knife” when she was still in her vehicle,²⁵ Fontaine answered, “I heard it. I can’t tell you how or when, but I heard it.” Fontaine 6/17/16 OIG Tr. 35:9-10. Later in the interview, Fontaine was given the opportunity to view the video footage again to clarify her answers on this point, and declined to do so.

Fontaine reviewed the allegations against her as set out in the Notification of Allegations served upon her by OIG, as relating to her statement to March. She responded, in relevant part, to the allegations as follows.

Allegation	Response When Asked to Review
It is alleged that, on or about October 20, 2014, you made a false statement during an interview with CPD Detective David March of the Chicago Police Department when, with respect to the McDonald shooting, you stated that you heard Officers Van Dyke and Walsh repeatedly order McDonald to drop the knife.”	Fontaine said, “I stand by my statement.” Fontaine 6/17/16 OIG Tr. 36:3.
“It is alleged that on or about October 20, 2014, you made a false statement during an interview with CPD Detective David March, with respect to the McDonald shooting, you stated that McDonald ignored Officers Van Dyke and Walsh’s directive to drop knife and that Van Dyke then fired multiple shots from his hand gun until McDonald fell to	Fontaine said, “It’s not a false statement.” Fontaine 6/17/16 OIG Tr. 37:7. She stood by her statement and said there was nothing she wanted to add to the statement.

²⁵ See summary of video footage, *supra*.

the ground and stopped moving his arm and hand which still grasped the knife.”	
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E. OIG’s Interview of Officer Viramontes

On March 18, 2016, OIG interviewed Fontaine’s partner, Viramontes. In relevant part, OIG questioned Viramontes about when, in the sequence of events leading up to the shooting, he and Fontaine arrived at the scene. Viramontes was shown portions of 813R and 845R’s dashcam videos and the Dunkin’ Donuts security camera. Thereafter, Viramontes was asked whether he arrived to the scene in time to hear Van Dyke repeatedly say “drop the knife.” Viramontes stated that he heard Van Dyke give the directive after he, Viramontes, opened his vehicle door. Viramontes claimed that Van Dyke was saying “drop the knife” as he was shooting McDonald. When Viramontes was asked whether he heard Van Dyke say “drop the knife” before he started shooting, Viramontes answered, “I couldn’t have, because I was still traveling.” Viramontes OIG Tr. 152:8-11.

V. ANALYSIS

OIG’s investigation established that Fontaine made false statements in her interview with CPD regarding the McDonald shooting. Fontaine’s false statements each served a similar purpose: to materially mischaracterize the events leading up to the McDonald shooting, and to thereby bolster a false narrative which might offer justification for the shooting.²⁶

Fontaine’s actions, individually and collectively, constitute violations of CPD Rules. Each of Fontaine’s false statements constitutes a violation of Rule 14 (making a false report, written or oral). Her false statements also constitute violations of Rule 2 (engaging in any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department), and Rule 3 (failing to promote the Department’s efforts to implement its policy and accomplish its goals). An officer who has made false statements in an official investigation has irrevocably tainted not only her credibility, but also the credibility of CPD—and also fails to promote CPD’s goal of employing officers with personal integrity and professional devotion to law enforcement. Accordingly, OIG recommends that CPD discharge Fontaine.

Fontaine made two false statements to Detective March on October 20, 2014, regarding the McDonald shooting. Both are clearly contradicted by 813R and 845R’s dashcam video, the most objective and reliable evidence of the events that night, and by the testimony of her partner, Viramontes. By making these false statements, Fontaine provided a false narrative concerning the shooting. Specifically:

²⁶ OIG also examined the issue of Fontaine’s compliance with CPD Rules and orders regarding the use of her in-car video system on October 20, 2014. OIG has determined that there is not a sufficient basis to conclude that Fontaine violated those rules or orders.

- Fontaine stated that she heard Van Dyke and Walsh repeatedly order McDonald to “drop the knife.”
- Fontaine stated that McDonald ignored Van Dyke’s verbal direction to drop the knife before Van Dyke opened fire.

As evidenced by Viramontes’s testimony and the video evidence, Fontaine could not have heard Van Dyke order McDonald to “drop the knife” before he began shooting McDonald, and therefore could not have seen McDonald “ignore” the verbal direction. The 813R dashcam establishes that Fontaine was opening the passenger side door of the 841R vehicle as Van Dyke began shooting McDonald.

When interviewed by OIG, Fontaine’s partner, Viramontes, admitted he did not hear Van Dyke give the “drop the knife” directive until after he opened his door. Viramontes further admitted that he “couldn’t have” heard Van Dyke say “drop the knife” before Van Dyke started firing because Viramontes “was still traveling.” Tr. 152:8-11. Viramontes was riding in the same car as Fontaine, and 845R’s video shows that Viramontes and Fontaine exited their car at the same time; if Viramontes could not have heard Van Dyke order McDonald to drop the knife before the shooting, then Fontaine could not have either. Viramontes admitted that he could not possibly have heard the officers order McDonald to drop the knife before the shooting. This admission was against his own interest—it required him to acknowledge that he provided false information to March. Viramontes’s statement against his own interest is more credible than Fontaine’s self-serving and uncorroborated claims that, in spite of the video footage, she did hear the order.

As Fontaine could not have heard Van Dyke order McDonald to “drop the knife” before shooting him, she therefore could not have witnessed McDonald ignore the order before Van Dyke shot him. Thus, by ratifying her statements to March, in spite of video footage undermining them, Fontaine stood by a sequence of events which served to justify Van Dyke’s shooting of McDonald, and which Fontaine cannot possibly have witnessed.

In her OIG interview, Fontaine was firm in her position that she did not recall telling March that McDonald raised his arm as if attacking Van Dyke, and that that statement, attributed to her in March’s CSR, is not accurate. There is no evidence, however, that Fontaine took any measure, at any time, to correct CPD’s investigatory record to reflect this; this is despite the fact that she, by her own admission, saw March’s report of her statement in the newspaper.

Fontaine’s false statements served to materially mischaracterize the events leading up to the McDonald shooting. In this context, Fontaine’s statements can be seen as a deliberate attempt to establish the false narrative that Van Dyke shot an oncoming McDonald in response to McDonald’s potentially deadly knife attack. Fontaine was given the opportunity to correct, clarify, or explain her false statements. She was shown video of the shooting which objectively contradicts her statements, and still she stood by them.

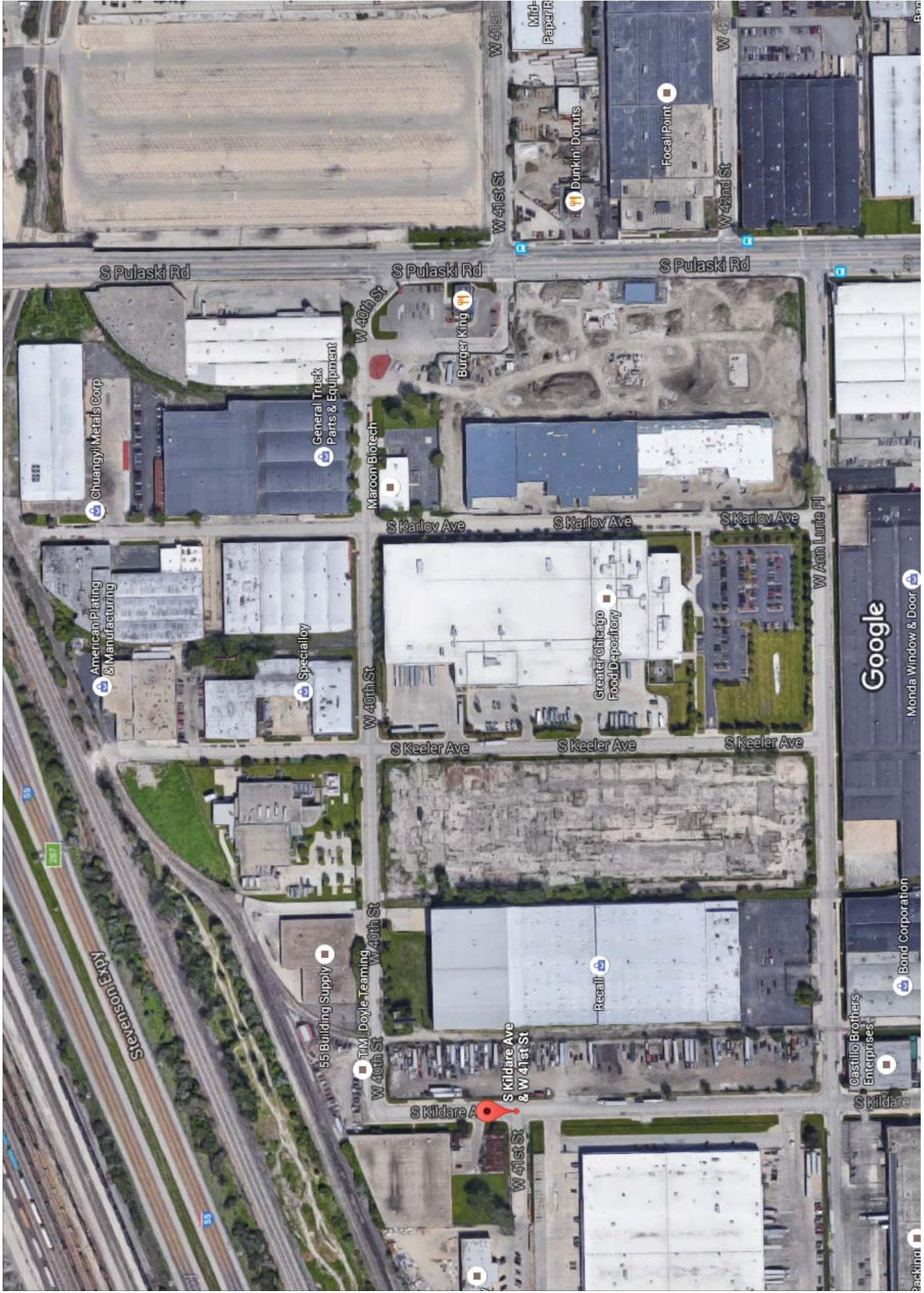
VI. RECOMMENDATION

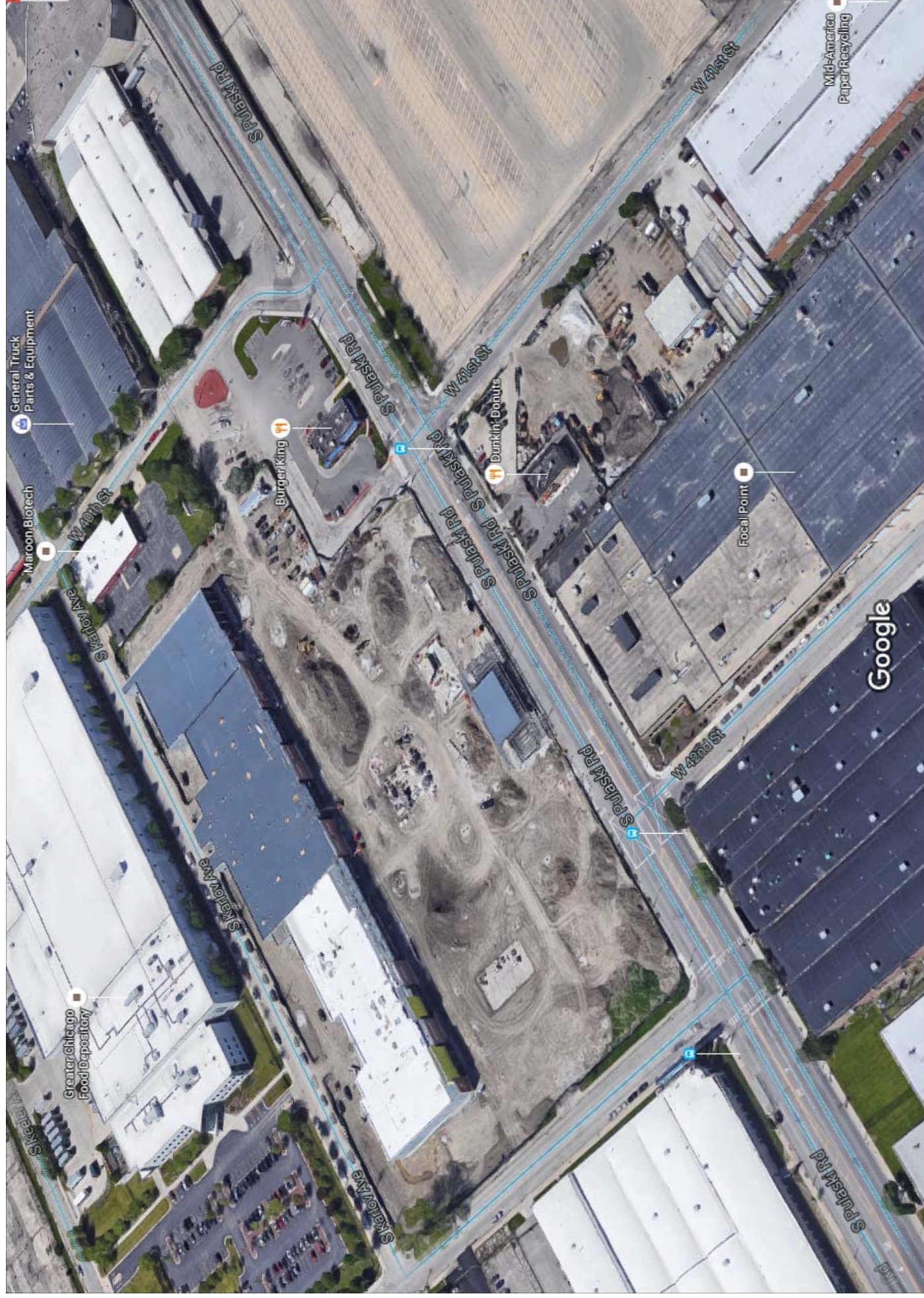
Fontaine's false statements raise significant concerns regarding her credibility and ability to perform her duties as a sworn officer. As a sworn officer, Fontaine's reports are relied upon in criminal legal proceedings and her credibility is therefore critical to her position. An officer who has made false statements in an official investigation has irrevocably tainted her credibility and has wholly disqualified herself from effectively executing core police functions. Based on this conduct she may be the subject of cross-examination in any contested proceedings in which she may appear as a witness, *see* FED. R. EVID. 608(b) ("Specific instances of conduct"), and her conduct and the findings resulting from this investigation would further qualify as impeachment material that should, in principle, be disclosed in any contested proceeding involving the official records or testimony Fontaine generates. *See Giglio v. United States*, 405 U.S. 150 (1972) (requiring disclosure in criminal case of information impeaching of government witness's credibility). Illinois courts have repeatedly noted that "as the guardians of our laws, police officers are expected to act with integrity, honesty, and trustworthiness" and have found intentional false or misleading statements by police officers to be sufficient cause for termination. *Rodriguez v. Weis*, 408 Ill. App. 3d 663, 671 (1st Dist. 2011) (quoting *Sindermann v. Civil Service Comm'n*, 275 Ill. App. 3d 917, 928 (2nd Dist. 1995)). OIG therefore recommends that CPD discharge Fontaine and refer her for placement on the ineligible for rehire list maintained by the Department of Human Resources.

VII. CPD RULE VIOLATIONS

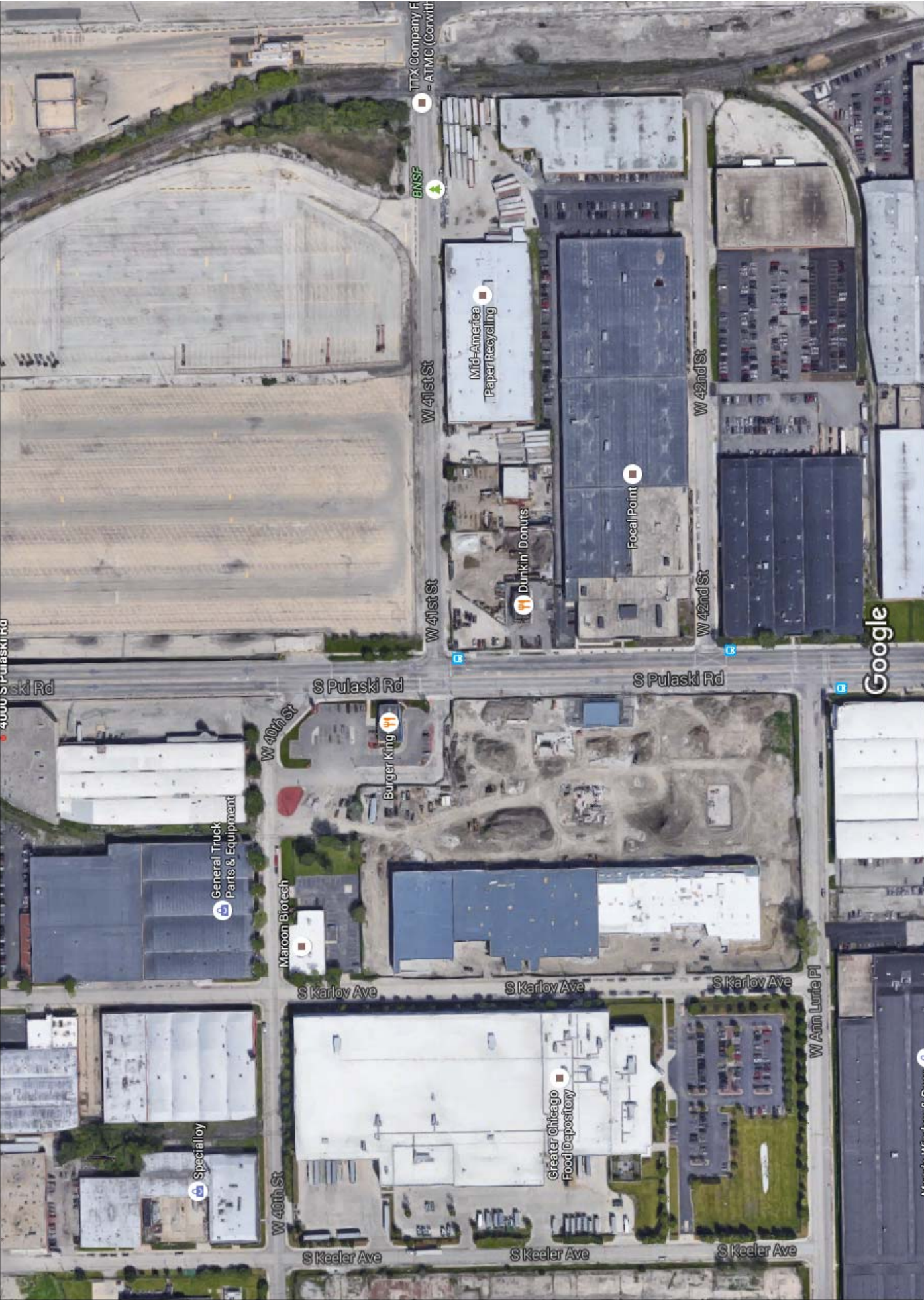
- Rule 2** Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 3** Any failure to promote the Department's efforts to implement its policy or accomplish its goals.
- Rule 14** Making a false report, written or oral.

Appendix A





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